

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

WILLIAM F. KING, JR.

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2:04CV303-P-B

CITY OF SOUTHAVEN, et al

DEFENDANTS

ORDER

This cause is before the Court on the defendants' Motion to Dismiss [28] and supplemental Motion to Dismiss [34]. The Court, having reviewed the motions, the responses and being otherwise fully advised in the premises, finds as follows, to-wit:

That the motions are not well-taken and should be denied. Although defendants were not served with process within the period specified in F.R.C.P. 4(m), the Court finds that the plaintiff articulated a sufficient basis for an extension of time to effect service.¹ Accordingly, the Court finds that the circumstances described by plaintiff, in conjunction with the prejudice he would otherwise suffer, warrant an extension of time up to and including December 20, 2005 in which to obtain proper service on the City of Southaven and Mayor Greg Davis. Because plaintiff served defendants

¹ The Court need not determine that these circumstances constitute good cause. The Comments to the 1993 Amendments to Rule 4 provide:

Subdivision (m). This subdivision retains much of the language of the present subdivision (j). The new subdivision explicitly provides that the court may allow additional time if there is good cause for the plaintiff's failure to effect service in the prescribed 120 days, and authorizes the court to relieve a plaintiff of the consequences of an application of this subdivision even if there is no good cause shown.

Life Help Inc. and Quality Mental Health, Inc. within that period, the Court deems the service of process sufficient.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the defendants' Motion to Dismiss [28] and supplemental Motion to Dismiss [34] are not well-taken and should be, and hereby are, DENIED.

SO ORDERED, this the 28th day of March, 2006.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE